

# In the Supreme Court of the United States

OCTOBER TERM, 1940

No. 486

MADELINE D. POWERS, PETITIONER

v.

GUY T. HELVERING, COMMISSIONER OF  
INTERNAL REVENUE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT

## MEMORANDUM FOR THE RESPONDENT

Although we believe that the decision below is correct, we do not oppose the petition in view of the conflict with decisions in three other circuits<sup>1</sup> which the court below recognized (R. 43-44) and in view of the fact that certiorari was granted on October 14, 1940, in *Guggenheim v. Rasquin*, No. 92, which involves the same question.

Respectfully submitted.

FRANCIS BIDDLE,  
*Solicitor General.*

OCTOBER 1940.

<sup>1</sup> *Commissioner v. Haines*, 104 F. (2d) 854 (C. C. A. 3d); *Helvering v. Cronin*, 106 F. (2d) 907 (C. C. A. 8th); *Helvering v. Bryan*, 109 F. (2d) 430 (C. C. A. 4th).